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SOUGHT TO BE SEALED

Attorneys for Defendant: Otto Trucking LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc.; Ottomotto LLC; Otto
Trucking LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**OTTO TRUCKING'S SUPPLEMENTAL
NOTICE OF JOINDER IN UBER
TECHNOLOGIES INC. AND
OTTOMOTTO'S MOTION TO EXCLUDE
TESTIMONY AND OPINIONS OF
WAYMO'S DAMAGES EXPERT
MICHAEL WAGNER (DKT. NO. 1619)**

Hearing Date: September 27, 2017
Hearing Time: 8:00 a.m.
Courtroom: 8, 19th Floor
Judge: Hon. William Alsup

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Defendant Otto Trucking, LLC (“Otto Trucking”)
3 hereby supplements its earlier joinder (Dkt. No. 1653) in Co-Defendants Uber Technologies,
4 Inc.’s (“Uber”) and Ottomotto, LLC’s (“Ottomotto”) Motion to Exclude Testimony and Opinions
5 of Waymo’s Damages Expert Michael Wagner (the “Wagner Motion”) (Dkt. No. 1619). Otto
6 Trucking states that Mr. Wagner should be excluded from offering any damages opinions with
7 respect to Otto Trucking in light of his recent admissions during deposition testimony. In further
8 support of its joinder, Otto Trucking states as follows:

9 1. On September 16, 2017, Uber/Ottomotto filed and served the Wagner Motion
10 seeking to exclude Mr. Wagner’s damages opinion and testimony because that opinion was
11 unreliable, based on a flawed methodology, and contradictory.

12 2. On September 25, 2017, Uber/Ottomotto filed and served an administrative motion
13 to supplement the Wagner Motion record with Mr. Wagner’s deposition transcript (Dkt. No.
14 1787), which the Court granted on the same day (Dkt. No. 1795).

15 3. In its prior joinder, Otto Trucking noted that “Mr. Wagner’s opinion is unreliable
16 because it continues to lump Otto Trucking with Ottomotto, though the two are separate
17 companies. He also has not demonstrated any damages specifically as to Otto Trucking separate
18 from the damages he contends are attributed to Uber.” (Dkt. No. 1653 ¶ 4).

19 4. At his September 22, 2017 deposition, Mr. Wagner admitted that [REDACTED]
20 [REDACTED]

21 [REDACTED] For the Court’s convenience, Otto Trucking identifies at least the following
22 excerpts from Mr. Wagner’s deposition transcript (Dkt. No. 1786-3) as relevant to its joinder in
23 the Wagner Motion:

24 - 127:12–15: [REDACTED]
25 [REDACTED]

26 - 128:14–22: [REDACTED]
27 [REDACTED]
28 [REDACTED]

- 1 - 134:15–18: [REDACTED]
2 [REDACTED]
3
4 - 136:18–137:4: [REDACTED]
5 [REDACTED]
6
7 - 138:10–14: [REDACTED]
8 [REDACTED]
9
10 - 142:3–7: [REDACTED]
11 [REDACTED]

12 WHEREFORE, Defendant Otto Trucking LLC hereby supplements its joinder and
13 adoption of Co-Defendants’ Motion to Exclude Testimony and Opinions of Waymo’s Damages
14 Expert Michael Wagner (Dkt. No. 1619).

15 Dated: September 26, 2017

Respectfully submitted,

16 By: /s/ Neel Chatterjee
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **September 26, 2017**. I further certify that all participants in the case are registered CM/ECF users and that service of the publicly filed document will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **September 26, 2017**.

/s/ Neel Chatterjee
NEEL CHATTERJEE